

# What is the “Cullen” Law? New Netflix Movie “The Good Nurse” Tells the Story of What Led to Certain Reporting Requirements for Healthcare Entities and Professionals

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The new Netflix film “The Good Nurse” is based on the true story of Charles Cullen, a nurse who is currently serving consecutive life sentences in New Jersey State Prison for the murders of dozens of patients while working at several hospitals in Pennsylvania and New Jersey. Cullen moved from one hospital to another, despite his questionable employment record and prior suspicious behavior. In response to Cullen's confession and subsequent imprisonment, the state Health Care Professional Responsibility and Reporting Enhancement Act (HCPRREA) was signed into law in New Jersey in 2005. Another program about Charles Cullen is scheduled to premiere on Netflix in mid-November – a documentary called “Capturing the Killer Nurse.” The public's renewed interest in the Cullen story should serve as a reminder to all healthcare entities and professionals to know, and comply with, the HCPRREA, also known as the Cullen Law.

While the application of the legislation is fact-specific, it is important that healthcare entities and professionals understand the criteria within the HCPRREA, to avoid non-compliance and consequential penalties.

## What is a Reportable Event?

Healthcare professionals must promptly notify the Division of Consumer Affairs or Board of Nursing/Medical Examiners if:

- He or she is in possession of information that reasonably indicates that another healthcare professional has demonstrated an impairment, gross incompetence, or unprofessional conduct, AND
- The information about the professional would present an imminent danger to an individual patient or to the public's health, safety, or welfare.

# How does the law define Healthcare Entity and Healthcare Professional?

The law defines a Healthcare Entity as a licensed healthcare facility such as, but not limited to, hospitals, ambulatory care facilities and long-term care facilities, outpatient clinics, a carrier that offers a managed care plan regulated pursuant to state law, a state or county psychiatric hospital; a state developmental center, a staffing registry, and a home care services agency.

The law defines Healthcare Professional as a member of the State Board of Medical Examiners or the New Jersey Board of Nursing, including nurses' aides and personal care assistants.

## What Must be Reported?

Healthcare entities are required to notify the Division of Consumer Affairs, in writing, of a healthcare professional engaged in conduct relating to impairment, incompetency, or professional misconduct, which relates adversely to patient care or safety.

## What Events Would Spawn a Required Report?

- Professionals had their practice temporarily revoked or suspended and/or permanently revoked or suspended;
- Entity removes the healthcare professional from their list of eligible employees of a health services agreement;
- Entity discharges or terminates the healthcare professional;
- Entity terminates or rescinds a contract with the healthcare professional to render professional services;
- Professionals have limiting conditions or limitations placed on their exercise of their clinical privileges for reasons relating the healthcare professional's impairment, incompetency, or professional misconduct or, which incompetency or professional misconduct relates adversely to patient care or safety;
- Professionals have voluntarily resigned during the course of an investigation in the professional conduct of the healthcare professional, especially as it relates to impairment or incompetence unprofessional behavior, where incompetence or unprofessional conduct

relates adversely to patient care or safety;

- Professionals are under a review by the healthcare entity that is granted a leave of absence for reasons relating to a physical, mental, or emotional condition or drug or alcohol use that impairs the healthcare professional's ability to practice with reasonable skill and safety, except that no report is required (due to confidentiality) for pregnancy-related leaves of absence or if the healthcare professional has sought assistance from approved professional assistance or intervention program and is following the treatment regimen or monitoring as that program requires;
- Professionals are a party to a medical malpractice liability suit, to which the healthcare entity is also a party, and in which there is a settlement, judgment, or arbitration award.

## What Does Not Rise to the Level of Required Reporting?

Professional misconduct regarding tardiness, insubordination or other similar behavior, is not the type of information regarding incompetence and negligence that this act seeks to remedy as long as it does not relate to patient care or safety.

## How can Healthcare Entities Ensure Compliance with the Law?

The legislation includes a good faith reporting protection in that the healthcare entity is protected from retribution of the healthcare professional regarding their claims so long as the organization acted “in good faith and without malice” in their reporting and is therefore not liable for any civil damages in any cause of action arising out of the reporting.

## What does the Disclosure Requirement Entail?

A healthcare entity that receives an inquiry from another healthcare entity concerning a healthcare professional must truthfully disclose whether, within the seven years preceding the inquiry, it provided any notice about the individual to the Division under the Act, or to the Medical Practitioner Review Panel.

Further, a healthcare entity must provide the inquiring entity with a completed form known as CN-9.

If you have questions regarding employment or regulatory law in the healthcare environment, please contact the author Tim Ford at [tford@einhornlawyers.com](mailto:tford@einhornlawyers.com).